IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
April 4, 2006 Session

JOHN C. KERSEY v. PATTY WILSON

Appeal from the Circuit Court for Davidson County
No. 05C-1633 Barbara Haynes, Judge

No. M2005-02106-COA-R3-CV - Filed on December 29, 2006

A member of a Methodist Church sued another member of the same church for defamation because of a remark she allegedly made about a poem he had posted on a church bulletin board. The defendant filed a motion for a judgment on the pleadings. After a hearing, the trial court granted the motion and also enjoined the plaintiff from having any further contact with officials or members of the church. We affirm the judgment on the pleadings, but vacate the court's injunction because it is overly broad.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court
Affirmed in Part and Vacated in Part

PATRICIA J. COTTRELL, J., delivered the opinion of the court, in which WILLIAM B. CAIN and FRANK G. CLEMENT, JR., JJ., joined.

John C. Kersey, Smyrna, Tennessee, Pro Se.

George H. Cate, Jr., Nashville, Tennessee, for the appellee, Patty Wilson.

OPINION

I. A CONTROVERSY ABOUT A POEM

Plaintiff John Kersey was a member of the Hillcrest United Methodist Church in Davidson County. According to his complaint, Nancy Neelley, the female pastor of the church, made unfounded accusations of sexual harassment against him. Mr. Kersey responded by filing a complaint with the church's Staff-Parish Relations Committee against its two pastors, one male and one female. He also wrote a poem, entitled "Assumptions," which he sent via e-mail to pastor Neelley.

The poem tells a story in sixteen rhymed couplets of the arrival of "an attractive young lady" at the heavenly gates. She asks St. Peter if she can enter, and he offers her a hug "with arms opened

wide." She rejects the hug, and St. Peter rebukes her for her distrust and prejudice. He then pulls a chain, opening a door beneath the woman's feet, with the result that "[t]he devil embraced this woman on the other side."

On Sunday, May 8, 2005,[1] John Kersey arrived at the church one hour before the scheduled service, and attached a copy of his poem to a bulletin board. A prefatory note attached to the poem stated that it was "One Christian's Response to Allegations of Sexual Harassment." Defendant Patty Wilson, a member of the Staff-Parish Relations Committee, was nearby, and as soon as Mr. Kersey left the hallway where the bulletin board was located, she removed the poem.

When Mr. Kersey returned to the hallway, an argument broke out between him and two other church members. During the confrontation, Ms. Wilson called the police. A Metro police officer arrived promptly, and Ms. Wilson pointed Mr. Kersey out to him, allegedly proclaiming "He wrote a poem that threatened the life of one of our members." Ms. Wilson's husband and the other two church members allegedly heard this utterance. The police officer then escorted Mr. Kersey from the premises of the church, and the trustees of the church subsequently told him not to return.

II. LEGAL PROCEEDINGS

On June 2, 2005, Mr. Kersey filed a pro se complaint for defamation in the Circuit Court of Davidson County. He claimed that Ms. Wilson's statement spread through the congregation "like a wildfire," that it caused him great mental anguish and emotional suffering, and that it was defamatory *per se.* He asked the court to award him $100,000 in compensatory damages, $50,000 for emotional pain and suffering, and $150,000 in punitive damages. A copy of Mr. Kersey's poem was attached to the complaint.

Ms. Wilson's answer confirmed some of the details of the complaint, but she denied making the statement which Mr. Kersey deemed to be defamatory. She also asked the court to dismiss the complaint as without foundation. Mr. Kersey filed several motions including a motion that the trial judge state on the record whether she had any communications with any attorney, party, or witness in the case; a motion that the court order the defendant's attorney to abide by professional ethics, and a motion to amend his complaint.[2] He also filed eleven subpoenas *duces tecum* against members of the church, not including the defendant, seeking to discover what other people might have been saying about him.

On July 15, 2005, Ms. Wilson filed two motions: a motion to quash the eleven subpoenas *duces tecum*, and a motion to dismiss Mr. Kersey's complaint on the pleadings. The motion to

[1] The defendant claims that this actually occurred on May 15.

[2] The proposed amendment added allegations that Ms. Wilson's defamatory statement "was made with malice"; that the trustees of Hillcrest United Methodist Church ordered Mr. Kersey not to return to the church, thereby acting against the advice of the Bishop of the Tennessee Conference of the United Methodist Church; and that Mr. Kersey had lost the friendship of several people in the church as a result of Ms. Wilson's statement.

dismiss contended that the complaint was deficient because it "fails to contain sufficient allegations of actual damages and injury from the alleged defamatory words."

During the hearing on the motion to dismiss, Ms. Wilson's attorney discussed the question of damages. He noted that Mr. Kersey did not allege that he had suffered any loss of employment or other economic damages, and no damages other than to his reputation in the church itself, which the attorney attributed to Mr. Kersey's own actions in posting the poem, rather than to any comment Ms. Wilson might have made about it. He also stated that the dispute at bar was really an internal church problem, thus suggesting that the exclusion of Mr. Kersey from the church was beyond the scope of judicial review because of the doctrine of ecclesiastical abstention. *See Presbyterian Church v. Hull Memorial Presbyterian Church*, 393 U.S. 440, 447 (1969); *Watson v. Jones*, 80 U.S. 679, 727 (13 Wall.)(1872); *Nance v. Busby*, 18 S.W. 874, 880 (Tenn. 1892).

For his part, Mr. Kersey repeatedly stated to the court that Ms. Wilson accused him of threatening the life of a church member. He argued that threatening someone's life is a criminal offense and that accusing an individual of committing a crime is defamatory under Tennessee law. Ms. Wilson's attorney noted, however, that Mr. Kersey's complaint alleged that Ms. Wilson had actually said that he had written a poem that threatened the life of a church member, not that he had actually threatened someone's life. Mr. Kersey also claimed damages arising from injury to his reputation in that two factions of the congregation, acting against the advice of the presiding Bishop, had presented him with a letter of expulsion.

At the conclusion of argument, the court ruled for the defendant. Its action was memorialized in an order filed September 6, 2005, which dismissed the complaint and quashed the subpoenas because they had been rendered moot by the dismissal of the case. The court also took the unusual step of ordering the plaintiff "to have no further contact with Hillcrest United Methodist Church or any of its members or officials." This appeal followed.

III. THE JUDGMENT ON THE PLEADINGS

Of the six issues Mr. Kersey raises on appeal, only one directly addresses the propriety of the judgment on the pleadings which was rendered against him. The other five are criticisms of the trial judge and the way in which she handled the court proceedings. In this section, we will address the judgment on the pleadings.[3]

When reviewing an order granting a judgment on the pleadings, *see* Tenn. R. Civ. P. 12.03, we use the same standard of review as we do for an order granting a Tenn. R. Civ. P. 12.02(6) motion to dismiss for failure to state a claim. *City of Alcoa v. Tennessee Local Government Planning Advisory Committee*, 123 S.W.3d 351, 355 (Tenn. Ct. App. 2003); *Waller v. Bryan*, 16 S.W.3d 770, 773 (Tenn. Ct. App. 1999).

[3] Mr. Kersey did not appear for oral argument. We must therefore base our understanding of his position solely upon his brief on appeal.

Under that standard, we review the trial court's decision *de novo* without a presumption of correctness. *Stein v. Davidson Hotel Co.*, 945 S.W.2d 714, 716 (Tenn. 1997). We construe the complaint liberally in favor of the non-moving party and take all the factual allegations in the complaint as true. *Leach v. Taylor*, 124 S.W.3d 87, 90 (Tenn. 2004). We can uphold the grant of the motion only when it appears that the plaintiff can prove no set of facts in support of a claim that will entitle him or her to relief. *Crews v. Buckman Laboratories*, 78 S.W.3d 852, 857 (Tenn. 2002); *Cook v. Spinnaker's of Rivergate, Inc.*, 878 S.W.2d 934, 938 (Tenn. Ct. App. 1994).

A. Was The Statement Defamatory?

Mr. Kersey's complaint alleged that Ms. Wilson's utterance defamed him. Libel and slander are both forms of defamation. Libel is written defamation and slander is spoken defamation. *Quality Auto Parts Co., Inc. v. Bluff City Buick Co., Inc.*, 876 S.W.2d 818, 820 (Tenn. 1994). "The basis for an action for defamation, whether it be slander or libel, is that the defamation has resulted in an injury to the person's character and reputation." *Davis v. The Tennessean*, 83 S.W.3d 125, 128 (Tenn. Ct. App. 2001). *Quality Auto Parts*, 876 S.W.2d at 820.

As this court said in *Stones River Motors, Inc. v. Mid-South Publishing Company*, 651 S.W.2d 713, 720 (Tenn. Ct. App. 1983),

> For a communication to be libelous, it must constitute a serious threat to the plaintiff's reputation. A libel does not occur simply because the subject of a publication finds the publication annoying, offensive or embarrassing. The words must reasonably be construable as holding the plaintiff up to public hatred, contempt or ridicule. They must carry with them an element "of disgrace." (Quoting W. Prosser, Law of Torts, § 111, p. 739 (4th Ed.1971).

Our Supreme Court has described the elements necessary to establish a prima facie case of defamation as follows: "the plaintiff must prove that (1) a party published a statement;[4] (2) with knowledge that the statement was false and defaming to the other; or (3) with reckless disregard for the truth of the statement or with negligence in failing to ascertain the truth of the statement." *Sullivan v. Baptist Memorial Hospital*, 995 S.W.2d 569, 571 (Tenn. 1999).

The alleged slander in the present case occurred when Ms. Wilson pointed Mr. Kersey out to the policeman and said that "He wrote a poem that threatened the life of one of our members." Although she denies having made this utterance, we must take the allegation as true, and examine whether it is sufficient, in conjunction with the other allegations of the complaint, to support a claim for relief.

[4] "Publication" is a term of art meaning the communication of defamatory matter to a third person. *Sullivan v. Baptist Memorial Hospital*, 995 S.W.2d 569, 571 (Tenn. 1999).

We first note that it is undisputed that Mr. Kersey wrote a poem, and that the poem was posted where members of the church could see it before it was removed by the defendant. The poem depicted the experiences of "an attractive young lady" after her demise, and it may be reasonable under the circumstances to assume that it was meant to refer to Pastor Neelley.

We must also note that a poem is a work of the imagination which allows the minds of both poets and readers to venture into areas that lie beyond the realm of verifiable facts. Just as the poet is granted "poetic license," so the reader enjoys considerable latitude to interpret the meaning of a poem in a way that matches his or her understanding. Thus, we consider Ms. Wilson's alleged statement that Mr. Kersey's poem amounts to a threat on someone's life to be a matter of opinion, which should not be confused with a statement of fact.

This distinction is important because a statement of opinion does not usually constitute actionable defamation, while a false statement of fact may do so. For example, in *Stones River Motors, Inc. v. Mid-South Publishing Company*, 651 S.W.2d 713, 720 (Tenn. Ct. App. 1983), a newspaper published a letter from a dissatisfied customer of a used car dealer, which recounted the customer's experiences with the dealer, and called the dealer's actions "a perfect example of highway robbery in action." The dealer sued for libel, and the trial court granted summary judgment to the customer and the newspaper.

We affirmed, observing that there was no significant dispute as to the facts of the underlying transactions between the customer and the dealer, and that the customer's statement was simply his own characterization of those facts. "Since the statement must be factually false in order to be actionable, comments upon or characterizations of published facts are not in themselves actionable. If the published facts being commented on are true and nondefamatory, the writer's comments upon them are not actionable, even though they are stated in strong or abusive terms." 651 S.W.2d at 720

Similarly, in *Greenbelt Cooperative Publishing Association v. Bresler*, 398 U.S. 6, 90 S.Ct. 1537 (1970)(cited in the *Stones River Motors* case, *supra)* the U.S. Supreme Court found that the use of the term "blackmail" to describe the plaintiff's negotiating tactics was not slander when spoken in a heated city council meeting, and not libel when published in newspaper articles accurately reporting the public debate. The Court reasoned that "the word was no more than rhetorical hyperbole, a vigorous epithet by those who considered [the defendant's] negotiating position extremely unreasonable." 398 U.S. at 14, 90 S.Ct. at 1542.

In *Old Dominion Branch No. 496 v. Austin*, 418 U.S. 264, 94 S.Ct. 2770 (1974)(also cited in *Stones River, supra)* the Supreme Court held that a union publication describing the plaintiff non-union member as a scab, and therefore "a traitor to his God, his country, his family, and his class" was not actionable. The language cited was derived from a well-known piece of trade union literature, generally attributed to Jack London. The Court reasoned the use of words like "traitor" in that case could not be construed as representations of fact, but rather as "merely rhetorical hyperbole, a lusty and imaginative expression of the contempt felt by union members towards those who refuse to join." 418 U.S. at 286, 94 S.Ct at 2782.

Interestingly, in all of the above cases, the language uttered by the defendants about the plaintiffs, could, if taken literally, impute to them the commission of a crime. However, the courts held in each of them that the use of the terms "highway robbery," "blackmail" and "traitor" were expressions of opinion as to the plaintiffs' behavior rather than accusations that they had committed actual crimes, and that those expressions were therefore protected speech.

In the present case, Mr. Kersey argues that since it is a crime to threaten someone's life, Ms. Wilson's statement was defamatory *per se*. In support of this proposition, he cites the case of *Brown v. Newman*, 454 S.W.2d 120 (Tenn. 1970). We note that in the cited case, the court parsed the language of the defendants' statement very closely before concluding that it was not defamatory. The case involved a pamphlet about a zoning dispute, which declared "The Skids are Greased at City Council." The court found the pamphlet was not defamatory because it merely implied that

> pressure, in the form of political influence' had been brought to bear on certain councilmen in order to expedite matters – not that any Councilmen were bribed. On the other hand, if the language had been 'the palms are greased at City Council,' then the pamphlet necessarily would have been defamatory per se and actionable as such.

454 S.W.2d at 122.

If we apply the same sort of analysis to Ms. Wilson's alleged statement, it appears to us that she was not accusing Mr. Kersey of committing a crime, but was merely giving excited expression to her opinion of the underlying meaning of his poem.

We do not mean to imply, however, that a statement couched in the form of an opinion can never be found to be defamatory, for the Supreme Court has explicitly held that there is no wholesale defamation exemption to every statement that might possibly be labeled "opinion." *Milkovich v. Lorain Journal, Inc*., 497 U.S. 1, 18, 110 S.Ct. 2695, 2705 (1990). In that case, the Court noted that "expressions of 'opinion' may often imply an assertion of objective fact." *Ibid.* (assertion by newspaper sports columnist that wrestling coach lied under oath was actionable even though expressed as opinion, because the columnist was present at the relevant proceedings, and truth of his assertion was capable of verification).

The rule which has been adopted to deal with such situations is that a statement of opinion is actionable only if it implies the allegation of undisclosed defamatory facts as the basis for the opinion. *Revis v. McClean*, 31 S.W.3d 250, 253 (Tenn. Ct. App. 2000) (citing *Restatement (2d) of Torts* § 566 (1977)). Conversely, "where there is no false representation of fact, one may not recover in actions for defamation merely upon the expression of an opinion which is based upon disclosed, nondefamatory facts, no matter how derogatory it may be." *Windsor v. Tennessean*, 654 S.W.2d 680, 685 (Tenn. Ct. App. 1983).

In the present case, Ms. Wilson has been accused of saying that Mr. Kersey "wrote a poem that threatened the life of one of our members." We do not believe that such a statement is equivalent to saying that he threatened someone's life, which under the circumstances might have amounted to an allegation of fact. Nor does it carry an implication that Mr. Kersey threatened anyone at any other time or in any other manner than by writing a poem. The alleged statement is clearly opinion only, and we therefore agree with the trial court that it is not defamatory.

B. The Question of Damages

Even if we assumed, *arguendo*, that the content of Ms. Wilson's statement could be considered defamatory, Mr. Kersey still would not be entitled to recover without alleging compensable damages. Under the common law of defamation, some words were considered to be so injurious upon their face that no actual proof of damages was required to make them actionable. The existence of injury to reputation was presumed from the fact of publication. *See Memphis Publishing Co. v. Nichols*, 569 S.W.2d 412, 416, 421 (Tenn. 1978). These defamations *per se* included allegations that a plaintiff had committed a crime involving moral turpitude. *Dunnebacke v. Williams*, 381 S.W.2d 909, 911 (Tenn. 1964); *Knoxville Publishing Co. v. Taylor*, 215 S.W.2d 27, 29 (Tenn. Ct. App. 1948).

In the case of *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 94 S.Ct. 2997 (1974) the United States Supreme Court reached a different conclusion. The court criticized what it called "an oddity of tort law," which "allows recovery of purportedly compensatory damages without evidence of actual loss." 418 U.S. at 349, 94 S.Ct. at 3011. Noting that presumed damages for defamation could "inhibit the free exercise of First Amendment freedoms," the court declared that they should no longer be permitted. *Ibid.* In *Memphis Publishing Co. v. Nichols*, *supra*, the Tennessee Supreme Court discussed the *Gertz* case and approved of its elimination of presumed damages. Damages from false or inaccurate statements can no longer be presumed; actual damage must be sustained and proven in all defamation cases. *Memphis Publishing House* at 421; *Davis v. The Tennessean*, 83 S.W.3d 125, 128 (Tenn. Ct. App. 2001).

Mr. Kersey's complaint refers in the most general terms to damages in the form of loss of reputation, but he does not offer any allegations of fact that could lead the court to attribute any such loss to Ms. Wilson's alleged remark rather than to the behavior that she was commenting on. The only damage that Mr. Kersey asserts with any degree of specificity that he has suffered is the claim that Ms. Wilson is somehow responsible for the decision of the church to expel him from its midst. However, our courts have long held that they lack the authority to regulate matters involving membership in churches and other religious bodies. Over one hundred and thirty years ago, the United States Supreme Court described in general terms the limitations that the courts must observe when presented with disputes between religious bodies and their members:

> The rule of action which should govern the civil courts, founded in a broad and sound view of the relations of church and state under our system of laws, and supported by a preponderating weight of judicial authority is, that, whenever the questions of

> discipline, or of faith, or ecclesiastical rule, or custom, or law have been decided by the highest of these church judicatories to which the matter has been carried, the legal tribunals must accept such decisions as final, and as binding on them, in their application to the case before them.

Watson v. Jones, 80 U.S. 679, 727 (13 Wall.)(1872). An early Tennessee case of similar import is *Nance v. Busby,* 18 S.W. 874 (Tenn. 1892). Consequently, courts cannot inquire into the reasons for the church's decision to expel Mr. Kersey.

The courts have reasoned that people have an unquestioned right to form voluntary religious associations and to organize the governance of their congregations in whatever way they deem appropriate. By joining such organizations, individuals are consenting to their governing structures, and bind themselves to submit to their rules. "But it would be a vain consent and would lead to the total subversion of such religious bodies, if any one aggrieved by one of their decisions could appeal to the secular courts and have them reversed." *Watson v. Jones* at 679. *See also Serbian Eastern Orthodox Diocese v. Milivojevich,* 426 U.S. 696, 711-712, 96 S.Ct. 2372, 2381 (1976); *Nance v. Busby,* 18 S.W. 874 (Tenn. 1892); *Martin v. Lewis,* 688 S.W.2d 72, 74 (Tenn. Ct. App. 1985). *Tidman v. Salvation Army*, No. 01-A-01-9708-CV00380, 1998 WL 391765 (Tenn. Ct. App. July 15, 1998)(no Tenn R. App. P. 11 application filed).

Even if Ms. Wilson's alleged statement played some role in the church's decision, it would nonetheless be protected as part of the church's internal disciplinary proceeding. "In cases involving defamation torts by church officials, Tennessee courts must look at whether the slanderous or libelous statements were made during the course of an ecclesiastical undertaking." *Ausley v. Shaw*, 193 S.W.3d 892, 859 (Tenn. Ct. App. 2005). Generally, disputes based on otherwise defamatory statements made in the context of a religious disciplinary proceeding are not resolvable by the courts. *Ausley v. Shaw,* 193 S.W.3d at 859; *Hiles v. Episcopal Diocese of Massachusetts,* 773 N.E.2d 929 (Mass. 2002) (holding that letter accusing minister of misconduct started and was an inextricable part of church's internal disciplinary procedure and, therefore, protected by the First Amendment). *See also Callahan v. First Congregational Church of Haverhill,* 808 N.E.2d 301, 313-14 (Mass. 2004) (holding that statements made in an ecclesiastical complaint, investigation, and proceeding regarding the plaintiff who was excommunicated derived solely from actions that are inextricably part of the church disciplinary process and claims based on those statements were outside the jurisdiction of the courts). As to internal disciplinary proceedings, courts will not dictate to a congregation or church officials that they may not freely speak their minds. *Yaggie v. Indiana-Kentucky Synod Evangelical Lutheran Church in America,* 860 F.Supp. 1194, 1199 (W.D. Ky. 1994).

Mr. Kersey himself established the relationship between the poem he wrote and internal church proceedings against him by attaching a note that the poem was "One Christian's Response to Allegations of Sexual Harassment." The defendant Patty Wilson was a member of the church's Staff-Parish Relations Committee at the time she removed the poem from the church bulletin board and allegedly made the remark that Mr. Kersey complained of. The doctrine of ecclesiastical abstention prohibits us from looking behind a church's decisions about its own membership. We

are accordingly unable to consider the impact (if any) that Ms. Wilson's utterance may have had on the decision to expel Mr. Kersey, and we are thus precluded from considering the only specific allegation of damages he has raised.

IV. THE COURT'S INJUNCTION

As we stated above, the trial court ordered the plaintiff, *sua sponte*, "to have no further contact with Hillcrest United Methodist Church or any of its members or officials." The court did not ask the parties to submit any evidence or argument either in favor of or against such an injunction.

In his appellate brief, Mr. Kersey objects to the court's order on the ground that it interferes with his ongoing efforts to gather evidence as to whether other church members may have slandered him, and to initiate new lawsuits on the basis of such evidence. The defendant did not address the injunction on appeal, other than to lump it with Mr. Kersey's other issues as not requiring a response because they were unrelated to the motion to dismiss on the pleadings.

The effects of the injunction are actually quite a bit broader than Mr. Kersey describes, however, for if strictly followed they would prevent him from associating with any church members for any purpose whatsoever, even if the other person agreed to or welcomed that contact. We note that the pleadings suggest that Mr. Kersey's aggressive approach towards church members, particularly women, has been uncomfortable for them, and that his determination to use the courts for vindication of purely personal grievances worsens those problems. Perhaps that is the reason that the trial judge decided that an injunction was appropriate. However specific requests for judicial orders barring unwanted contact, based on necessary proof, would be more appropriate to deal with the problem.

A court's equitable power to grant injunctions should be used sparingly, especially when the activity enjoined is not illegal, when the injunction is not requested, and when it is broader than necessary to achieve its purposes. *See Earls v. Earls*, 42 S.W.3d 877 (Tenn. Ct. App. 2000); *Terry v. Terry*, M1999-01630-COA-R3-CV, 2000 WL 863135 (Tenn. Ct. App. June 29, 2000) (perm. app. denied Jan. 8, 2001).

In the present case, the trial court's final order includes a very broadly drafted injunction that severely inhibits Mr. Kersey's freedom of association beyond a ban on attending the church in question. In sum, it appears to us that the court's injunction is impermissibly broad, and we hereby order it dissolved but without prejudice to the defendant asking the court for injunctive relief pursuant to Tenn. R. Civ. P. 65, and subject to the requirements of specificity in terms and reasonable detail as required by Tenn. R. Civ. P. 65.02.

V. OTHER ISSUES

The four other issues raised by Mr. Kersey are basically allegations of bias and wrongdoing on the part of the trial judge and opposing counsel. Those allegations are couched in the form of questions and unsupported by significant evidence in the record.[5] We have carefully read the transcript of the hearing, and we have found no indications of any wrongdoing on the trial judge's part and no evidence that her determination of the motion for judgment on the pleadings was the product of bias or that she was influenced by matters outside the pleadings. We accordingly find these arguments to be without merit.

VI.

We affirm the judgment of the trial court dismissing Mr. Kersey's complaint, but vacate that portion of its order forbidding him from having any further contact with church members or officials. We remand this case to the Circuit Court of Davidson County for any further proceedings necessary. Tax the costs on appeal to the appellant, John C. Kersey.

PATRICIA J. COTTRELL, JUDGE

[5] The Issues for Review are stated in Mr. Kersey's appellate brief as follows:

1. Did the trial court err in dismissing Plaintiffs defamation case on the pleadings?
2. Was the trial judge guilty of judicial misconduct by ignoring the unethical conduct of counsel for several potential defendants while chastising Plaintiff for joking with a clerk before the hearing?
3. Did the trial judge demonstrate prejudice against Plaintiff by remarks she made at the hearing?
4. Even though the trial judge denied having any ex parte communications with either opposing attorney or any potential witnesses or parties, was her denial credible when she acknowledged knowing the same people who were present, as observers, in the courtroom?
5. Did the trial judge commit judicial misconduct when, on her own initiative, without any evidence whatever before the court, she ordered plaintiff not to have any contact with anyone at the church?
6. Did the trial judge commit judicial misconduct when she delayed, for almost two weeks, signing the Order of Dismissal in an obvious attempt to aid the potential defendants in the running of the six-months statute of limitations for slander?